



STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF ALPHA PHONE)
INC. FOR A CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO PROVIDE SWITCHED AND NON-)
SWITCHED FACILITIES-BASED LOCAL EXCHANGE)
AND INTEREXCHANGE TELECOMMUNICATIONS)
SERVICES THROUGHOUT THE STATE OF NEW)
JERSEY)

ORDER

DOCKET NO. TE05110962

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letter dated November 11, 2005 Alpha Phone Inc. ("Petitioner") filed a Petition with the Board of Public Utilities ("Board") requesting a Certificate of Public Convenience and Necessity to resell all forms of intra-state telephone service in the State of New Jersey; and to provide facilities-based private line and switched intercity service; and to provide intra-city switched and non-switched services, including local exchange dial tone services to business and residential customers, as a facilities-based carrier.

Alpha Phone Inc. was incorporated under the laws of the State of New Jersey on August 25, 2005. Petitioner's principal offices are located at 1279 37th Street, Brooklyn, New York 11218. Petitioner submitted copies of its Articles of Incorporation, New Jersey Certificate of Good Standing and its New Jersey Certificate of Incorporation. According to the competitive exchange carrier questionnaire submitted by the Petitioner, Petitioner will provide service in all territories/municipalities served by Verizon – New Jersey.

Petitioner states that it is a newly formed New Jersey Corporation, is not licensed to provide service and has not heretofore provided telephone service in this or any other jurisdiction. Petitioner also states it has never acquired a customer by switching it from another company without customer consent and that it has not been the subject of any complaint or investigation related to unauthorized switching of a customer's local or long distance service without authorization, or any related other aspect of the provision of the telecommunications services. However, Petitioner's parent company, Alpha Phone NY, is licensed to provide service, and is currently providing services in the State of New York. According to the Petition, Petitioner may construct or lease its own transmission and switching facilities utilizing fiber optics, micro-wave, copper carrier, digital, analog and other technologies, using various protocols, including VOIP, to connect customers to inter-exchange carrier Points-of-Presence or to customers on an intra-city, intra-LATA or inter-LATA basis. Petitioner states that it will provide switched, facilities based service (including local dial tone service) as a Competitive Local Exchange Carrier to business

and/or residential customers. Petitioner further states that facilities may be used for both switched and private line traffic and will include the provision of local exchange dial tone service to business and residential customers. The facilities constructed by the Petitioner may be used separately or in conjunction with similar facilities and unbundled Network Elements provided by or obtained from other entities. Petitioner proposes to acquire and resell various voice and data communications services and network elements offered by communications common carriers, and other entities, and to package and provide these services for the specialized functions and needs of its customers. Petitioner states that it will lease or subscribe to and resell various types of exchange and carriers access lines and services, including Unbundled Network Elements, UNE-P Replacement Services, and intra-city, intra-LATA, inter-LATA and interstate services and facilities of communications common carriers and other entities. Petitioner states that its services and facilities to be resold may include Message Telephone Service (local and toll), Wide Area Telephone Service, WATS-like services, Foreign Exchange Service, private lines, tie lines, high capacity digital internet access lines, switched and special access service, pay telephone services, cellular service, PCS service, local switched service, centrex-type services, Unbundled Network Elements (including, but not limited to, links, ports and transport), switching services, information services, internet services and access, and other services and facilities of communications common carriers and other entities. Petitioner states that its initial operations will be conducted in various areas in New Jersey. According to the Petition, statewide certification is requested and Petitioner intends to commence operations through purchase of Network Elements (Bundled and Unbundled) and UNE-P Replacement Services from underlying incumbent carriers. Petitioner further states that it may purchase its own switching vehicle and that access to public safety/emergency telephone numbers will be provided through the facilities of the underlying incumbent local exchange carrier. Petitioner states that its customers will dial E-911, and such calls will be handled and routed by the incumbent in the same manner as the incumbent handles such calls from its own customers. Petitioner will offer its customers access to the statewide relay system through the availability of dial toll free numbers (8XX and 711) designated by the operator of the statewide relay system. Petitioner will also offer lifeline service to residential customers who qualify under the standards of the Incumbent Local Exchange Carrier. Information about qualifying for lifeline service will be provided to all prospective residential customers upon their initial contact with the Petitioner regarding service. Petitioner's toll free customer number for New Jersey is 1-866-552-2557. Petitioner's registered agent and registered office are XI Corporate Services, Inc., 691 State Highway 33, Trenton, New Jersey 08619.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 and N.J.A.C. 14:1-4.3 which require that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices located at 1279 37th Street, Brooklyn, New York 11218. Petitioner states, upon written notice from the Board, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that expedited approval of its Petition will augment the competitive telecommunications services which it can offer to all New Jersey customers, including an enhanced range of telecommunications services and an increase in consumer choices. Petitioner states approval of Petition will serve the public interest.

Petitioner states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications services in the State of New Jersey.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical, and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to "provide diversity in the supply of telecommunications services" and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Alpha Phone Inc.'s Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange and interexchange telecommunications services throughout New Jersey subject to approval of its tariff. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60, and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and the Division of the Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board.

The Board HEREBY ORDERS that

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to file an annual report by the due date, Petitioner shall be subject to a penalty of Five Dollars and 00/100 \$5.00 for each day thereafter until such report is filed.
- 3) Pursuant to N.J.S.A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 the following year.

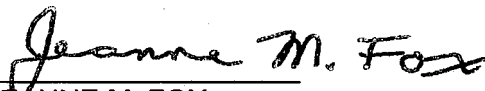
On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon forty-eight 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

DATED:

4/13/06

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


CONNIE O. HUGHES
COMMISSIONER

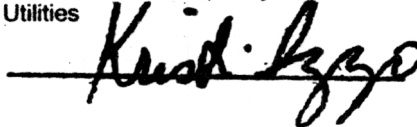

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



IN THE MATTER OF THE PETITION OF ALPHA PHONE INC. FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE
SWITCHED AND NONSWITCHED FACILITIES-BASED LOCAL EXCHANGE
AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES THROUGHOUT
THE STATE OF NEW JERSEY

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SERVICE LIST

Serial No.	<u>Name and Address</u>	Serial No.	<u>Name and Address</u>
1	Petitioner's Contact Person: Isaac Honig, President and CEO Alpha Phone Inc. 1279 37 th Street, Brooklyn New York 11218	4	Board's Staff: Walter Szymanski, Director Division of Audits Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
2	Petitioner's Attorney: Keith J Roland Roland, Fogel, Koblenz & Petroccione, LLP. 1 Columbia Place Albany, New York 12207	5	Board's Staff: Anthony Centrella, Director Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
3	Ratepayer Advocate: Seema M. Singh, Esq. Acting Director and Ratepayer Advocate Division of Ratepayer Advocate 31 Clinton Street, 11 th Floor P.O. Box 46005 Newark, New Jersey 07101	6	Deputy Attorney General: Arlene Pasko Department of Law & Public Safety Division of Law 124 Halsey Street, 5 th floor P.O. Box 45029 Newark, New Jersey 07102